

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 HOOMAN ROWSHAN  
Deputy Attorney General  
3 300 South Spring Street, Suite 500  
Los Angeles, California 90013  
4 Telephone: (213) 897-2574

5 Attorneys for Complainant  
6  
7

8 BEFORE THE  
BOARD OF ACCOUNTANCY  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
10

11 In the Matter of the Accusation	)	NO. AC-93-26
Against:	)	
12	)	<u>DEFAULT DECISION</u>
13 BARRY WOLFE RICHLIN	)	<u>AND ORDER</u>
11984 Bubbling Brook	)	
14 Moorpark, California 93021	)	
	)	
15 Certified Public Accountant	)	
Certified No. CPA 20346,	)	
	)	
16 Respondent.	)	

17  
18 On May 5, 1993, accusation number AC-93-26 was filed by  
19 Carol Sigmann, (hereinafter referred to as "complainant") before  
20 the Board of Accountancy (hereinafter referred to as "the  
21 Board"), Department of Consumer Affairs of the State of  
22 California against Barry Wolfe Richlin (hereinafter  
23 "respondent"), holder of Certified Public Accountant Certificate  
Number CPA 20346.

24 On or about June 2, 1993, the accusation, along with  
25 the statement to respondent, excerpt of Government Code sections  
26 11507.5, 11507.6, 11507.7, notice of defense, and request for  
27 discovery (hereinafter the "accusation package"), was served on

1 respondent by certified mail addressed to respondent at 11984  
2 Bubbling Brook, Moorpark, California 93021 and at 204 Quince  
3 Street, Olympia, Washington 98506. Attached hereto as Exhibit  
4 "A" is a copy of the proof of service of the accusation package  
5 and a copy of the signed return receipt card.

6 Pursuant to Title 16, California Code of Regulations,  
7 section 3, as holder of a certified public accountant certificate  
8 from the Board, respondent is required to file his current  
9 mailing address with the Board, and is required to immediately  
10 notify the Board of any and all changes of his mailing address.  
11 Respondent's mailing address of record with the Board is 11984  
12 Bubbling Brook, Moorpark, California 93021.

13 Respondent was served with the accusation package on  
14 June 2, 1993, in a manner authorized by Government Code section  
15 11505(c) and Code of Civil Procedure section 11. Respondent has  
16 failed to file a notice of defense as permitted by Government  
17 Code section 11506(a), and has otherwise failed to request a  
18 hearing, object or otherwise contest the accusation. Respondent  
19 has waived his right to a hearing on the accusation and is in  
20 default. Because of respondent's waiver and pursuant to  
21 Government Code section 11520(a), the board takes action on the  
22 accusation without a hearing, based upon the accusation and  
23 documentary evidence on file, and makes the following findings of  
24 fact and determination of issues.

25

26

#### FINDINGS OF FACT

27

1. Complainant, Carol Sigmann, the Executive Officer

1 of the Board of Accountancy, made and filed accusation AC-93-26  
2 in the above-entitled action solely in her official capacity.

3           2. On or about June 21, 1974, respondent was issued  
4 Certified Public Accountant Certificate Number CPA 20346 by the  
5 board. Said certificate expired on May 1, 1992 for nonpayment of  
6 the renewal fee required by Business and Professions Code section  
7 5070.5, and for non-submittal of evidence of compliance with the  
8 continuing education regulations.

9           3. After accepting a tax engagement, respondent  
10 failed to prepare the 1989 Income Tax returns of Mark J. Levine.

11           4. Respondent moved from his address of record at  
12 11984 Bubbling Brook in Moorpark, California, and failed to  
13 notify the Board within 30 days of the said change of address.

14           5. Respondent failed to respond to written  
15 communication from Kathleen A. Perry, a representative of the  
16 Board of Accountancy.

17           6. Respondent improperly retained the 1989 income tax  
18 record(s) of Mr. Levine despite repeated demands by Mr. Levine  
19 and the Board for the return of said record(s).

20           7. Respondent failed to appear before the  
21 Administrative Review Committee of the Board at its regularly  
22 scheduled meeting of October 22, 1992.

23                           DETERMINATION OF ISSUES

24           1. Because of the above findings of fact, cause for  
25 disciplinary action against respondent exists for violating  
26 provisions of the Board of Accountancy and the rules and  
27 regulations adopted by the Board.

1           2.   Cause for discipline exists pursuant to Business  
2 and Professions Code section 5100(c) for violating Title 16,  
3 California Code of Regulations, section 99 by reason of Finding  
4 of Fact No. 3.

5           3.   Cause for discipline exists pursuant to Business  
6 and Professions Code section 5100(f) for violating Title 16,  
7 California Code of Regulations, section 3 by reason of Finding of  
8 Fact No. 4.

9           4.   Cause for discipline exists pursuant to Business  
10 and Professions Code section 5100(f) for violating Title 16,  
11 California Code of Regulations, section 54.1 by reason of Finding  
12 of Fact No. 5.

13           5.   Cause for discipline exists pursuant to Business  
14 and Professions Code section 5100(f) for violating Title 16,  
15 California Code of Regulations, section 68 by reason of Finding  
16 of Fact No. 6.

17           6.   Cause for discipline exists pursuant to Business  
18 and Professions Code section 5100(f) for violating Title 16,  
19 California Code of Regulations, section 69.1 by reason of Finding  
20 of Fact No. 7.

21                           DISCIPLINARY ORDER

22           WHEREFORE, IT IS ORDERED:

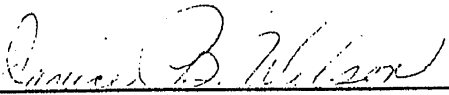
23           Certified Public Accountant Certificate Number CPA  
24 20346 issued to Barry Wolfe Richlin is hereby revoked pursuant to  
25 Determination of Issues 1, 2, 3, 4, 5, and 6, separately and for  
26 all of them.

27           Respondent shall not be deprived of making any showing

1 by way of mitigation; however, such showing shall be made to the  
2 board prior to the effective date of this Default Decision.

3 This Default Decision shall become effective on  
4 November 17, 1993.

5 DATED: October 18, 1993

6  
7 By 

8 President  
9 Board of Accountancy  
10 Department of Consumer Affairs  
11 State of California  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

27 0354110-LA93AD0195

**EXHIBIT A**

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 HOOMAN ROWSHAN,  
Deputy Attorney General  
3 300 South Spring Street, Suite 500  
Los Angeles, California 90013  
4 Telephone: (213) 897-2574  
5 Attorneys for Complainant

6  
7  
8 BEFORE THE  
BOARD OF ACCOUNTANCY  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
10

11 In the Matter of the Accusation ) No. AC-93-26  
Against: )  
12 )  
BARRY WOLFE RICHLIN ) ACCUSATION  
13 11984 Bubbling Brook )  
Moorpark, California 93021 )  
14 )  
Certified Public Accountant )  
15 Certified No. CPA 20346 )  
Respondent. )  
16 )  
17 )

18  
19 Complainant, CAROL SIGMANN, alleges as follows:  
20 1. She is the Executive Officer of the Board of  
21 Accountancy (hereinafter referred to as the "Board") of the  
22 Department of Consumer Affairs of the State of California and  
23 makes and files this Accusation solely in her official capacity.  
24 2. On June 21, 1974, the Board issued to Barry Wolfe  
25 Richlin (hereinafter "Respondent") certified public accountant  
26 certificate number CPA 20346 for the practice of public  
27 accountancy. Said certificate expired on May 1, 1992, for

1 nonpayment of the renewal fee required by Business and  
2 Professions Code section 5070.5, and for non-submittal of  
3 evidence of compliance with the continuing education regulations.

4           3. Subdivision (b) of Business and Professions Code  
5 section 118 provides that the suspension, expiration, or  
6 forfeiture by operation of law of a certificate, permit or  
7 license does not deprive the board of authority or jurisdiction  
8 to institute or proceed with disciplinary action against the  
9 certificate, permit or license during the period within which the  
10 certificate, permit, or license may be renewed, restored,  
11 reissued or reinstated.

12           Business and Professions Code section 5070.6 provides  
13 that an expired certificate or permit may be renewed at any time  
14 within five years after its expiration.

15           4. Pursuant to Business and Professions Code section  
16 5100 the Board may revoke, suspend or refuse to renew the permit  
17 or certificate of a certified public accountant, or may censure  
18 the holder of a permit or certificate for unprofessional conduct.

19           5. Business and Professions Code section 5100 provides  
20 at subsection (c) that unprofessional conduct includes gross  
21 negligence in the practice of public accountancy.

22           7. Title 16, California Code of Regulations section 99  
23 provides that an act is considered by the board to be  
24 substantially related to the qualifications functions, or duties  
25 of a certified public accountant if to a substantial degree it  
26 evidences the present or potential unfitness of the certified  
27 public accountant to perform the functions authorized by the



1 certificate in a manner consistent with the public health, safety  
2 or welfare, including but not limited to those involving gross  
3 negligence in the practice of public accountancy.

4           7. Business and Professions Code section 5100 provides  
5 at subdivision (f) that unprofessional conduct includes the  
6 willful violation of this chapter or any rule or regulation  
7 promulgated by the board under the authority granted under this  
8 chapter.

9           8. Title 16, Code of Regulations, section 3, requires  
10 every permit holder to notify the board in writing within 30 days  
11 of any change of address.

12           9. Title 16, California Code of Regulations, section  
13 54.1, requires every licensee to respond to written inquiry by  
14 the Board or its appointed representatives within 30 days from  
15 the date the inquiry is mailed to the licensee.

16           10. Title 16, California Code of Regulations, section  
17 68, holds that upon request of the client, every licensee must  
18 return all client books, records, or other data in his or her  
19 possession.

20           11. Title 16, California Code of Regulations section  
21 69.1 states that the willful failure or refusal by a licensee to  
22 comply with a written notice of appearance issued by the  
23 Certified Public Accountants Administrative Committee or the  
24 Public Accountants Administrative Committee constitutes a  
25 violation of section 5100 (f) of the Accountancy Act.

26           12. Respondent is subject to discipline pursuant to  
27 Business and Professions Code section 5100 (c) by the reason of

1 the following facts:

2 A. After accepting a tax engagement, respondent failed  
3 to prepare the 1989 Income Tax returns of Mark J. Levine.

4 B. The act alleged in paragraph A is an extreme  
5 departure from the ordinary standard of practice in the  
6 accounting profession in violation of Business and  
7 Professions Code sections 5100 and 5100 (c).

8 13. Respondent is subject to disciplinary action  
9 pursuant to Business and Professions Code section 5100 (f) and  
10 the Title 16, California Code of Regulations sections 3, 54.1,  
11 68, and 69.1 by the reason of the following facts:

12 A. Respondent moved from his address of record at  
13 11984 Bubbling Brook in Moorpark, California, and failed to  
14 notifying the Board within 30 days of the said change of  
15 address.

16 B. Respondent failed to respond to written  
17 communication from Kathleen A. Perry, a representative of  
18 the Board of Accountancy.

19 C. Respondent improperly retained the 1989 income tax  
20 record(s) of Mr. Levine despite repeated demands by  
21 Mr. Levine and the Board for the return of said record(s).

22 D. Respondent failed to appear before the  
23 Administrative Review Committee of the Board at its  
24 regularly scheduled meeting of October 22, 1992.

25 14. Business and Professions Code sections 5107  
26 provides that in any order issued in resolution of a disciplinary  
27 proceeding before the board, the executive officer of the board

1 may request the administrative law judge to direct the  
2 certificate holder found to have violated Business and  
3 Professions Code section 5100 to pay to the board a sum not to  
4 exceed the actual and reasonable costs of the investigation and  
5 prosecution of the matter, including attorney's fees.

6 NOTICE IS HEREBY GIVEN RESPONDENT that pursuant to  
7 Business and Professions Code section 5107, complainant hereby  
8 requests the Administrative Law Judge to direct respondent, if  
9 found in violation, to pay to the Board the reasonable costs of  
10 the investigation and prosecution of this matter.

11 WHEREFORE, complainant prays that a hearing be held and  
12 the Board make its order:

13 1. Revoking or suspending Certified Public Accountant  
14 certificate number CPA 20346 issued to Barry Wolfe Richlin.

15 2. Directing Barry Wolfe Richlin to pay to the Board  
16 of Accountancy its reasonable cost of investigation and  
17 prosecution of this matter.

18 3. Taking such other and further action as may be  
19 appropriate.

20 DATED: May 5, 1993

21

22

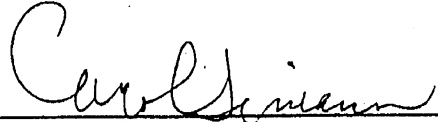
23

24

25

26

27

  
CAROL SIGMANN  
Executive Officer  
Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

HR:hg  
035411110-LA93AD0195  
richlin.ba